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The meeting was called to order at 10 a.m.

Agenda item 76: Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives (A/61/119 and Add.1 and 2)

1. **Ms. Skaare** (Norway), speaking on behalf of the Nordic countries (Denmark, Finland, Iceland, Norway and Sweden), said that the topic under consideration was a source of great concern. Preserving the safety of foreign emissaries was one of the principles deemed essential for the conduct of foreign relations and the promotion of interests common to the international community as a whole. Rules on the subject had appeared in the legal systems of all cultures, because international cooperation depended upon the protection of States representatives.

2. According to the universally accepted principles and rules of international law embodied in the 1961 Vienna Convention on Diplomatic Relations and the 1963 Vienna Convention on Consular Relations, receiving States were obliged to protect the premises and staff of diplomatic and consular missions and the missions of international organizations. Respect for the provisions of international law governing diplomatic and consular relations was a basic prerequisite for the normal conduct of relations among States and for the fulfilment of the purposes and principles of the Charter of the United Nations.

3. The fundamental reason for ensuring the security of diplomatic and consular missions and representatives was to safeguard not particular individuals, but the channels of communication between States. While sending States were entitled to the best possible protection of their representatives, the latter had a duty to comply with the laws and regulations of the receiving State.

4. Acts of violence against diplomatic and consular representatives and representatives of international intergovernmental organizations were unjustifiable and deserved strong condemnation. Her own country's missions had been affected by recent incidents which had seriously impeded their work. It was also alarming that, in recent years, innocent lives had been endangered or lost in such incidents. There was therefore a need for close cooperation between sending and receiving States in order to prevent breaches of the security of diplomatic and consular missions.

5. Receiving States had a particular duty to ensure appropriate protection of diplomatic and consular missions if a political situation made such action necessary. If the receiving State failed to do so, under the Vienna Conventions the injured State was entitled to claim prompt compensation for losses or injuries suffered as a result of inadequate security arrangements. She urged all States which had not yet done so to become parties to the relevant international legal instruments. Moreover, as the reporting procedures introduced by General Assembly resolution 59/37 would raise the world community's awareness of violations of the Vienna Conventions and hence of the need to promote efforts to enhance the protection, security and safety of diplomatic and consular missions and representatives, she appealed to all States to comply with those procedures. Lastly, she thanked the Secretary-General for his efforts to bring about the effective implementation of that resolution.

6. **Ms. Sotaniemi** (Finland), speaking on behalf of the European Union; the acceding countries Bulgaria and Romania; the candidate countries Croatia, the former Yugoslav Republic of Macedonia and Turkey; the stabilization and association process countries Albania, Bosnia and Herzegovina, Montenegro and Serbia; and, in addition, Moldova and Ukraine, said that the norms of international law as codified in the 1961 Vienna Convention on Diplomatic Relations and the 1963 Vienna Convention on Consular Relations laid down the legal basis for relations between States. They regulated not only the privileges and immunities of diplomatic and consular representatives, but also the obligations of receiving States. The rising number of ratifications of the Conventions and their protocols was therefore a matter of satisfaction. Member States should implement those texts fully and honour their obligations under them.

7. The purpose of the privileges and immunities guaranteed by the Conventions was not to safeguard individuals but to protect the sending State and to make sure that diplomatic and consular missions could efficiently perform their functions as representatives of States. Diplomatic and consular staff were naturally under an obligation to respect the laws of the receiving State.

8. The responsibility of a receiving State to ensure the security of the diplomatic and consular missions in its territory was central to international law on diplomatic relations. The physical safety of diplomatic

and consular personnel, which was a prerequisite for the smooth functioning of missions, was in the common interest of the international community and must therefore be safeguarded.

9. The European Union was deeply concerned about and condemned the continued, unacceptable and totally unjustifiable attacks which had been deliberately directed against diplomatic and consular missions and their staff and about other violations of the Vienna Conventions around the world. It therefore strongly urged Member States to meet their obligations under international law, to provide foreign missions with protection and to do their utmost to avert such attacks. If the latter did occur, they must be fully investigated and the perpetrators must be prosecuted. Member States should further engage in a dialogue with the diplomatic missions in their territory with a view to finding the most effective ways of guaranteeing the full protection of diplomatic premises and representatives. Failure by a State to meet its obligations under the Vienna Conventions clearly engaged its international responsibility and entailed an obligation to make reparation or to take other remedial action. The European Union encouraged Member States to comply with the reporting procedures established in General Assembly resolution 59/37 with a view to preventing attacks against diplomatic and consular missions and their representatives in the future.

10. **Mr. Adsett** (Canada), speaking on behalf of the CANZ group (Australia, Canada and New Zealand), referred to the death of a senior Canadian diplomat, Mr. Glynn Berry, at the hands of a suicide bomber in Afghanistan and said that attacks on diplomatic personnel were universally acknowledged to be a serious international crime. They were particularly heinous and senseless when they targeted persons who were dedicated to improving the lives of the population of the country in which they were serving.

11. Diplomats were often in the front line of the struggle to help the most vulnerable and dispossessed people on the planet. They often worked in very dangerous conditions in conflict zones. Traditional measures to protect them were not enough. Ratification of the relevant treaties and the criminalization of offences against diplomatic and consular personnel were needed. Prosecution of offenders was absolutely essential. If diplomats were to be able to carry out their work, it was vital to ensure that the latter was better understood and appreciated by the local population, especially in crisis and conflict zones.

12. Although there had been unrestrained attacks on diplomatic missions during the previous year, in one commendable instance local security forces had prevented greater harm. Diplomatic premises could not be made the convenient lightening rod for political dissatisfaction. He therefore called upon host States to be vigilant and active in their defence and rigorous in the prosecution of offenders. The principle of friendly relations between States required no less.

13. **Mr. Abdul Rahim** (Malaysia) said he wished to place on record his Government's appreciation of the way in which the Secretary-General and the Secretariat had fulfilled their mandate under General Assembly resolution 59/37 and said that the reporting procedures instituted under that resolution had provided a realistic picture of the challenges faced by those who served in the field and by national authorities whose responsibility it was to honour States' obligations under the 1961 Vienna Convention on Diplomatic Relations, the 1963 Vienna Convention on Consular Relations and the 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents.

14. If representatives of sovereign States and recognized international legal bodies were to go about their business of furthering international friendly relations and the maintenance of international peace and security without fear, States must guarantee the protection, security and safety of those persons.

15. Clearly there was almost universal adherence to the United Nations conventions which served as the international legal framework for the protection of diplomatic and consular missions and the offices of international organizations. The relatively few reports of serious violations of those instruments augured well and indicated that States were generally fulfilling their duties and responsibilities in that respect. Nevertheless, continuing acts of violence against diplomatic and consular missions and the offices of international organizations were a matter of concern, since those premises were generally easy targets because they had to be easily accessible to the public if they were to perform their functions in the host country.

16. Malaysia supported any measure which would enhance their protection and welcomed the constructive suggestions of Qatar, Finland and Ecuador

in that regard. Reciprocity would certainly help to ensure that adequate protective measures were put in place and that a timely and effective response would be given to any serious violations of protective obligations. His Government had already enacted legislation to give effect to the relevant provisions of the three conventions he had mentioned earlier, because it took its responsibilities in that connection seriously. Security arrangements were geared to the level of the perceived threat and prompt action was taken on any reported incidents or violations of the law. Malaysia undertook to work with other States parties to achieve the more effective implementation of the three conventions in question.

17. **Ms. Kaplan** (Israel) said that violent attacks and terrorist threats against diplomatic and consular missions and representatives and the offices and staff of international intergovernmental organizations were rapidly increasing. The missions and representatives of her country had suffered as a result of that development. The international community should therefore take swift action to provide adequate protection for all diplomatic missions and staff, especially when they were targeted by terrorists aiming to destabilize relations between friendly States.

18. Reiterating her Government's commitment to the provisions of the 1961 Vienna Convention on Diplomatic Relations, the 1963 Vienna Convention on Consular Relations and all other relevant international legal instruments affording protection to diplomatic and consular staff and missions, she said that the Committee must draw greater attention to the obligations arising out of article 22, paragraph 2, of the 1961 Vienna Convention. The special duty of care it imposed was of great relevance when diplomatic missions were confronted with mass demonstrations. Without proper local protection, missions would be unable to perform their diplomatic and consular functions. At the same time, irrespective of the privileges and immunities diplomatic and consular staff might enjoy, it was their duty to respect the laws and regulations of the receiving State. The international community should do all it could to make sure that receiving States fulfilled their obligations under international law in order to promote an environment in which diplomatic representatives could carry out their essential duties without risking their lives.

19. **Ms. Ramos Rodríguez** (Cuba) said that breaches of the security of diplomatic and consular missions were a worrying phenomenon causing damage to property and endangering the lives of innocent people. Her delegation unreservedly condemned such acts whose perpetrators should not go unpunished. For that reason, States must take the requisite steps to fulfil their international obligations and to prohibit the activities of persons, groups and organizations which incited, organized or committed acts against the security of missions and the safety of diplomatic and consular staff in their territory.

20. From time immemorial, diplomatic and consular staff had enjoyed privileges and immunities designed to protect them. The authorities of her country had adopted measures to prevent any acts of violence against foreign missions in its national territory. Missions and premises where official activities took place and the homes of diplomatic representatives were guarded by members of the public security services.

21. Cuban legislation had criminalized acts, aggression and attacks against the honour and dignity of the diplomatic representatives of foreign States and perpetrators of such deeds were liable to heavy prison sentences. International conventions on the protection and security of diplomatic and consular missions must be strictly respected; while it was satisfying to note that 26 more States had become parties to the instruments in question since the previous report (A/59/125) had been issued, the topic was still of great interest and its consideration would help to promote compliance with the law on diplomatic and consular relations.

22. **Mr. Kuzmin** (Russian Federation) said there were still a substantial number of hot spots in the world, and armed conflicts were in progress in many places. Diplomats worked in almost all of the countries concerned and deserved to receive the requisite level of protection from the international community.

23. In 2006, five members of the Russian embassy staff had been brutally killed in Baghdad after an armed terrorist attack on their car. Those guilty of the attack were still at large. His Government therefore urged States to comply fully with the principles and rules of international law on the protection of diplomatic personnel, including during armed conflicts of an international and non-international nature. In addition to the appalling event he had just described, over the previous two years Russian diplomats had

repeatedly been exposed to violence in perfectly safe countries.

24. The General Assembly's resolution under the current agenda item must call on States to take all the requisite measures at the national and international levels to prevent any acts of violence against diplomatic missions, representatives and officials, including during periods of armed conflict, and to ensure that, with the participation of the United Nations, such acts were thoroughly investigated with a view to calling offenders to account.

25. Receiving States were obliged to secure the protection, security and safety of diplomatic and consular missions. Under international law, failure to respect the principle of their inviolability engaged the responsibility of States.

26. **Mr. Abdelsalam** (Sudan) said that, although his Government had missed the deadline for submitting a report in accordance with General Assembly resolution 59/37, it had set up a specialized unit within the Ministry of the Interior which was responsible for ensuring the safety and security of diplomatic and consular missions and representatives. The unit comprised high-calibre officers and policemen who received intensive training on the privileges and immunities set forth in the 1961 Vienna Convention on Diplomatic Relations and the 1963 Vienna Convention on Consular Relations. The unit had been increased in size to enable it to provide protection for the United Nations Mission in the Sudan and peacekeepers. A major thoroughfare in Khartoum had been closed at the request of a mission which had not been under any threat but which had indicated that such a move would be in keeping with its Government's worldwide security plan. Thus Sudan was not only fulfilling its commitments but was prepared to go even further than was necessary in order to meet its obligations.

Agenda item 75: Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts (A/61/222 and Add.1)

27. **Mr. Playle** (Australia), speaking on behalf of the CANZ group (Australia, Canada and New Zealand), applauded the adoption of Additional Protocol III to the Geneva Conventions, establishing the red crystal as an additional protective emblem for humanitarian workers, free of any extraneous political or religious connotations and enjoying the same status as the red cross and the red crescent. The adoption of that Additional Protocol, and the consequent amendments to the Statutes of the International Red Cross and Red Crescent Movement, had also allowed for the simultaneous admission into the Movement of the Israeli national society, Magen David Adom, and the Palestinian Red Crescent Society. That was a crucial step towards ensuring that access to humanitarian assistance would be universally available. In addition, the Protocol would enhance the protection of people affected by conflicts and natural disasters, as well as the humanitarian workers who provided critical assistance to those in need. More than 70 States had signed Additional Protocol III thus far, including all three of the CANZ countries, which were now undertaking the ratification process. The CANZ group urged all States to become parties to the Protocol, whose entry into force would resolve a long-standing issue within the Movement and would enhance the capacity of national societies to deliver humanitarian assistance freely, safely and efficiently.

28. The CANZ countries also welcomed the accession of Nauru and Montenegro to the four Geneva Conventions, which had brought the number of States parties to 194, making those Conventions the only truly universal treaties. The CANZ countries called on all States which had not done so to become Parties to the three Additional Protocols. They, too, should enjoy universality. In that connection, the CANZ countries welcomed the accession of the Sudan to Additional Protocols I and II.

29. The CANZ group wished to acknowledge the tireless work of the International Committee of the Red Cross (ICRC) as the guardian of international humanitarian law and protector of persons caught up in armed conflict. ICRC continued to promote understanding of the rules of international humanitarian law, notably through its study on customary international humanitarian law, which was already proving to be an important resource for States. ICRC, with its United Nations partners, also disseminated the rules of international humanitarian law to all parties to an armed conflict, which was crucial for promoting respect for those rules and monitoring their implementation.

30. The CANZ countries firmly believed that the principles of international humanitarian law and international human rights law must be respected by all

in order to enhance the legal and physical protection of civilians in armed conflicts. All three States were parties to the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict and also supported other initiatives to protect civilians, including endorsement of the responsibility to protect. The most important aspect of universal adherence to the Geneva Conventions and their Protocols was universal implementation by all. The CANZ group called on all States to fulfil their obligations under common article 1 of the Geneva Conventions, and on the United Nations to be timely in its engagement, to be vigilant in its monitoring and to have the political will to draw upon the full range of possible measures to protect civilians.

31. **Ms. Sotaniemi** (Finland), speaking on behalf of the European Union; the acceding countries Bulgaria and Romania; the candidate countries Croatia and the former Yugoslav Republic of Macedonia; the stabilization and association process countries Albania, Bosnia and Herzegovina, Montenegro and Serbia; and, in addition, Moldova and Ukraine, said that the European Union was fully committed to promoting compliance with international humanitarian law, as shown by the adoption of the European Union Guidelines on the subject in December 2005. The European Union urged all Member States that had not yet done so to accede to Additional Protocols I and II to the Geneva Conventions and to consider accepting the competence of the International Fact-Finding Commission, pursuant to article 90 of Additional Protocol I. The European Union welcomed the adoption of Additional Protocol III, establishing an additional emblem, the red crystal, alongside the existing emblems, and urged Member States to sign and ratify the Protocol with a view to its early entry into force, bearing in mind that the purpose of the red crystal was to enhance the protection of victims. The Geneva Conventions currently enjoyed universal acceptance, and most of their provisions and those of the Additional Protocols of 1977 were generally recognized as customary international humanitarian law. It was important now to focus on the full implementation and dissemination of that law. In that context, the European Union wished to reiterate that certain minimum standards of humanity, including those established under common article 3 of the Geneva Conventions, must be respected in all situations of armed conflict.

32. The European Union commended ICRC for its continuous and manifold efforts to disseminate international humanitarian law, in particular through its comprehensive study on the subject, which deserved careful examination by Member States. The European Union also welcomed national efforts to disseminate and implement international humanitarian law, particularly through training of armed forces. The European Union was currently implementing the pledges it had made at the 28th International Conference of the Red Cross and Red Crescent concerning dissemination of international humanitarian law among young people.

33. The European Union recalled with satisfaction the adoption of the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (A/RES/60/147). The principles and guidelines addressed in a systematic way the question of remedies and reparation for victims under national law. At the international level, the International Criminal Court had a critical role to play in promoting respect for international humanitarian law by prosecuting and adjudicating perpetrators for crimes of genocide, crimes against humanity and war crimes. However, an equally important function of the Court was to deter those who might be tempted to commit such appalling acts and to ensure compensation for victims. The European Union reiterated its call to all States to ratify or accede to the Rome Statute.

34. **Mr. Lidén** (Sweden), speaking on behalf of the Nordic countries (Denmark, Finland, Iceland, Norway and Sweden), said that the Geneva Conventions had achieved universal recognition as the principal legal basis for protection of persons in armed conflict, but much remained to be done in order to achieve universal compliance with the rules contained in them. As was evident from the study recently published by ICRC, many rules of Additional Protocols I and II had also become part of customary international humanitarian law and were thus universally applicable to all States and parties to conflicts. The Nordic countries welcomed the ICRC study and hoped that States would disseminate it as widely as possible. Promoting and ensuring respect for international humanitarian law was a duty of all States.

35. The entry into force of Protocol V to the 1980 Convention on Certain Conventional Weapons and the

adoption of Additional Protocol III to the 1949 Geneva Conventions had contributed to the development and refinement of international humanitarian law. The Nordic countries stood behind those new instruments. Another trend that was contributing to the development of international humanitarian law was the increasing willingness among States and among United Nations organs and bodies to discuss and promote it through, inter alia, recent Security Council resolutions on the protection of civilians in armed conflict, on women affected by armed conflict and on children in armed conflict. The challenge now was to translate those resolutions into concrete action to protect innocent civilians.

36. The International Criminal Court was of paramount importance in the quest to ensure compliance with international humanitarian law and end impunity for war crimes, crimes against humanity and genocide. It was important to continue efforts to achieve universal adherence to the Rome Statute. It was also vital that States support and cooperate with the Court so that it could fulfil its tasks. The International Fact-Finding Commission established under article 90 of Additional Protocol I to the 1949 Geneva Conventions also had a role to play with regard to compliance with international humanitarian law. The Nordic countries urged States to accept the competence of the Commission to inquire into any alleged grave breaches of international humanitarian law. It was of the utmost importance that the international community react promptly to such breaches. Equally important was prevention of violations of international humanitarian law through awareness-raising campaigns and education. The role and importance of ICRC in that regard must be emphasized. The Nordic countries were deeply appreciative of the efforts of ICRC with respect to dissemination of international humanitarian law and provision of training on the subject, as well as protection of persons in situations of armed conflict.

37. The Secretary-General's report (A/61/222) indicated that training of military and armed forces in international humanitarian law remained a priority for many States. Such training was paramount to ensure respect for humanitarian standards. Accountability must also be ensured through national legislation and procedures, and all suspected abuses of humanitarian law must be investigated. The Nordic countries called upon all States and entities to respect the existing body of international humanitarian law, particularly with regard to the obligations to protect civilians.

38. **Mr. Talbot** (Guyana), speaking on behalf of the Rio Group, observed that the 1977 Protocols to the 1949 Geneva Conventions were currently so widely accepted that they were sometimes equated with customary law and considered binding on all. Nevertheless, while 194 States were parties to the Geneva Conventions, not all of them were parties to the Protocols. There had been an intense effort in the context of the United Nations to promote better understanding and implementation of the Protocols with a view to ensuring their universality. For example, General Assembly resolution 59/36, adopted in 2004, called upon all States parties to the Geneva Conventions that had not yet done so to consider becoming parties to the Additional Protocols at the earliest possible date, and also called upon States to make the declaration provided for under article 90 of Protocol I. The Rio Group reiterated those calls.

39. The Rio Group noted with appreciation the ICRC initiatives aimed at reaffirming, strengthening and disseminating international humanitarian law, in particular the continuation of the project "Reaffirmation and development of international humanitarian law, through which ICRC had been able to affirm important concepts related to the fight against terrorism and the status and rights of detainees in that context. The Rio Group appreciated the extensive work of ICRC in the field of legal and technical assistance for the adoption of national legislation required for the observance of international humanitarian law at the national level. It also welcomed the initiatives taken by States for the dissemination and full implementation of the Geneva Conventions and their Protocols at the national level. Such initiatives, coupled with concrete efforts to protect civilians, especially vulnerable groups, were the key to full compliance with international humanitarian law. While the human family waited for the time when conventions to protect the victims of war would be unnecessary because war itself had been eliminated, the Geneva Conventions and their Additional Protocols would remain fundamental international agreements providing for assistance to all victims of war, without discrimination.

40. **Mr. Al-Hebsi** (United Arab Emirates) said that despite the efforts of the United Nations over the previous 61 years aimed at establishing the supremacy of the rule of international law and promoting

implementation of the principles set out in the Charter and other human rights conventions and protocols, the world had continued to witness unprecedented events involving mass killing, arbitrary arrest, physical aggression and mutilation and other crimes against humanity, together with forced displacement of populations and denial of access to affected areas for humanitarian and assistance personnel. Those continued violations and war crimes made it incumbent upon the international community, now more than ever, to stop and re-evaluate international obligations concerning the implementation of human rights instruments, particularly the four Geneva Conventions of 1949 and their Additional Protocols. That meant not only promoting the principles set out in those instruments, but also strengthening existing international monitoring, verification and accountability mechanisms in order to ensure that the perpetrators of such crimes did not go unpunished.

41. The United Arab Emirates attached great importance to States' respect for the provisions of the Geneva Conventions and their Additional Protocols and expressed its deep concern at the continued violations by Israel of its obligations under those instruments, both in the Palestinian and Arab territories that Israel had occupied since 1967 and in its recent war in the region. Everyone had surely seen the television broadcasts and reports by humanitarian agencies concerning the sad and heinous events that had taken place in civilian communities in Lebanon and Gaza over the past summer, including massacres committed by Israeli forces armed with internationally banned weapons. The conflict, which had destroyed entire cities and killed more than 100,000 defenceless civilians, was one of the most horrendous acts of aggression in recent history. Those shameful Israeli violations, which still afflicted the besieged people of Gaza, could have been prevented if the international community had taken preventive measures to deter the policies of aggression against the Palestinians and other Arab populations espoused by successive Israeli Governments over the previous six decades.

42. Continued international tolerance for the repeated aggressions of Israel against the Arab peoples would reduce the credibility and universality of the Geneva Conventions. The United Arab Emirates therefore called upon the international community, and particularly the influential Quartet members which were also members of the Security Council, to do everything in their power to avoid the application of a double standard, stop the grave violations by Israel and ensure its compliance with the four Geneva Conventions and their Additional Protocols in all occupied Arab and Palestinian territories, including Al-Quds al-Sharif.

43. **Mr. Abdelsalam** (Sudan) said that his country regarded the provisions of the Geneva Conventions as constituting peremptory norms, and had abided by them in its two major internal conflicts, in the south and in Darfur. Moreover, it had recently ratified Additional Protocols I and II. The Sudan had a particular interest in common article 3 and Additional Protocol II relating to the protection of victims of non-international armed conflicts. Non-State actors were sometimes armed as well as or better than States, and often committed grave crimes such as killing aid workers and commandeering humanitarian food aid. The Sudan welcomed the fact that Additional Protocol II held non-State actors accountable, but believed that sincere implementation of those provisions, as well as of measures to prevent such actors from obtaining arms, was still lacking.

44. **Mr. Lauber** (Switzerland) said that, as the depositary State of the Geneva Conventions and their Additional Protocols, Switzerland had the honour to inform the Committee that the Conventions had achieved universality: the recent accessions of Nauru and Montenegro had brought the number of States parties to 194. The number of States parties to Additional Protocol I had reached 166, while Additional Protocol II had 162. The International Fact-Finding Commission established by article 90 of Additional Protocol I had been recognized by 69 States.

45. On 8 December 2005, the High Contracting Parties to the Geneva Conventions had adopted the third Additional Protocol relating to the adoption of an additional distinctive emblem. Switzerland had taken part in the elaboration of the Protocol and welcomed the establishment of the red crystal emblem, which would help to achieve the universality sought by the International Red Cross and Red Crescent Movement. He encouraged the High Contracting Parties to ratify the Protocol. To date, 70 States had signed it and 6 had ratified it.

46. Violations of international humanitarian law were too common. In many conflicts, civilians were

deliberately targeted, while the fundamental rights of prisoners and detainees were denied. Failure to comply with the Geneva Conventions could not be justified on any grounds. Humanitarian law constituted a minimum standard to be respected in all circumstances, including the complex and difficult fight against terrorism.

47. The obligation of States to respect and to ensure respect for humanitarian law extended to the recruitment and supervision of private military or security companies active in armed conflict. Switzerland, in collaboration with ICRC, had launched a process of intergovernmental debate on that topic. It had also launched an ongoing process of informal discussion on other new challenges to humanitarian law, such as the direct participation of civilians in hostilities, the impact of high- and low-tech methods of combat and the growing role of armed non-State actors. Switzerland encouraged all States parties to Additional Protocol I that had not yet done so to recognize the competence of the International Fact-Finding Commission established by article 90 of the Protocol.

48. Commending the remarkable work of ICRC, he welcomed in particular the publication of its study, *Customary International Humanitarian Law*, and encouraged all States to make good use of it.

49. **Mr. Alday González** (Mexico) said that, despite the achievements of the past 140 years with regard to the codification of international humanitarian law, humanitarian crises continued to occur around the world. Regrettably, the protection of civilians during hostilities was the exception rather than the rule. Renewed efforts were therefore required in order to ensure that international humanitarian law was effectively applied.

50. The universality of the main international humanitarian law instruments was a first step in that direction. Those instruments were universal not only in terms of formal adherence to them but also in the sense that the principles on which they were based were of a customary nature, as the International Court of Justice had stated in its advisory opinion on the legality of the use or threat of use of nuclear weapons. States were therefore bound by those principles whether or not they were parties to the instruments containing them.

51. The adaptation of existing rules to meet urgent needs would also result in more effective application of humanitarian law. In that context, the primacy of the protection of non-combatants over the pursuit of legitimate military objectives must be guaranteed. The adoption of the third Additional Protocol was a positive development in that regard.

52. The obligation "to respect and to ensure respect for" international humanitarian law, established by common article 1 of the Geneva Conventions, was an active obligation, as stated by the International Court of Justice in its advisory opinion on the legal consequences of the construction of a wall in the occupied Palestinian territory. The Security Council had assumed an important responsibility in that regard. However, the States parties to the Geneva Conventions and their Additional Protocols must likewise fulfil their obligations in accordance with article 7 of Protocol I. The depositary too had responsibilities in that regard.

53. The rules of international humanitarian law were not open to interpretation. Moreover, the Martens Clause remained valid, as had been affirmed by the International Court of Justice. States were not permitted to restrict the rights of wounded, sick or shipwrecked troops or prisoners of war, all of whom were protected by humanitarian law. Even persons without prisoner-of-war status were entitled to the protection provided for in article 75 of Additional Protocol I, which established fundamental minimum guarantees. International humanitarian law also limited the extent to which protected persons could renounce their rights, thereby safeguarding the inalienability of those rights.

54. Threats to international security now came from a variety of sources. Armed conflicts no longer involved only State actors or organized forces within the meaning of Additional Protocol II. Mexico strongly condemned terrorism precisely because of the suffering it inflicted on civilian populations. International humanitarian law expressly prohibited the use of terrorist acts as a method of combat. At the same time, the fight against terrorism must be conducted within the bounds of international humanitarian, human rights and refugee law. That principle was embodied in the Inter-American Convention against Terrorism, to which most of the States on the American continent were parties. Moreover, the fight against terrorism should not be used as a reason to establish different levels of application of humanitarian law.

55. Mexico welcomed the efforts of the States to strengthen international humanitarian law, as outlined in the Secretary-General's report (A/61/222). During

the period covered by the report, Mexico had been strengthening its institutional capacity for the implementation of international humanitarian law at the national level. It had ratified the Rome Statute of the International Criminal Court in October 2005. It had also abolished the death penalty and submitted a draft law to the legislature on the use of the Red Cross emblem, which was due to be approved soon. Domestic procedures for the signature of Protocol III had been concluded satisfactorily. Mexico was also taking steps to disseminate international humanitarian law in government and academic circles.

56. Mexico called for renewed commitment to the humanitarian principles which served to protect the victims of armed conflict and which had saved thousands of lives over the years.

57. **Mr. Al-Obaidli** (Qatar) said that the Geneva Conventions and their Additional Protocols had become part of international law, but their implementation remained an issue. He praised the efforts of ICRC to create mechanisms to ensure that international law was honoured, but said that States, ICRC and the International Federation of Red Cross and Red Crescent Societies (IFRC) needed to examine on an equal basis violations committed by both large and small States. The increasing destructive power of traditional weapons had made the issue of the protection of civilians in armed conflicts more pressing than ever. Qatar was a party to the Geneva Conventions and Additional Protocols I and II, and international humanitarian law was taught in its military, police and legal academies. Qatar called on all parties to conflicts to honour international humanitarian law.

58. **Mr. Tachie-Menson** (Ghana), reaffirming Ghana's commitment to the Geneva Conventions of 1949 and their 1977 Additional Protocols, said that those instruments had played an invaluable role in limiting the excesses of parties to conflicts and thereby reducing to some extent the humanitarian costs of such conflicts. Any assessment of the status of the Conventions and their Additional Protocols must take account of the current global context of internal and regional conflicts and the war on terrorism. While some aspects of the instruments should be adapted to meet the challenges posed by new methods of warfare, it did not follow that they were becoming irrelevant. Indeed, they were currently more valid and relevant than ever before.

59. The war on terrorism posed a particularly difficult challenge, namely whether rules designed to govern the conduct of States that were parties to a conflict could be applied to non-State actors such as extremist groups. Some States took the view that the rules of international humanitarian law did not cover terrorist groups, since such groups had abandoned all norms of civilized conduct. However, it could be argued that those rules — which prohibited attacks against civilian populations and acts or threats of violence designed to spread terror among such populations — did in fact cover terrorist groups if their activities were defined as "armed conflicts" within the meaning of the Geneva Conventions and their Additional Protocols. It was therefore important not to deny suspected terrorists their basic rights and due process.

60. His delegation opposed self-serving and subjective interpretations of the Conventions and Protocols, which not only weakened the moral authority of those promoting such interpretations but also undermined the credibility and universality of the instruments themselves. States should avoid being provoked into unilateral action that could lead to the unravelling of international humanitarian law, both codified and customary.

61. The issue of asymmetrical conflict also posed new challenges. The recent crisis in Lebanon had demonstrated that the wars of the future might involve non-State actors armed with high-tech weapons taking on State armies. The crisis had also highlighted the complex issue of proxy wars being fought by non-State actors on behalf of State sponsors. In such cases, it might be difficult under international humanitarian law to apportion liability to the non-State actor in question. It might also be difficult to establish the culpability of the State sponsor, even if its activities in that capacity could be proved.

62. The two Additional Protocols of 1977 had become indispensable for the protection of civilians in armed conflicts. With regard to non-international conflicts — the subject of Additional Protocol II — the 2005 World Summit Outcome (A/RES/60/1) and Security Council resolution 1674 (2006) had also emphasized the need to protect populations at risk. Meanwhile, peacekeeping forces in various conflict zones were being given robust mandates to protect civilians, thus providing an international enforcement capability when the parties to a conflict were unable or

unwilling to observe the rules of international humanitarian law. In addition, the International Criminal Court would be playing an important role in the protection of civilians in armed conflict. Lastly, he paid tribute to the vital work of ICRC in promoting international humanitarian law.

63. **Mr. Krishnan** (Malaysia) said that the Committee must underline the need for renewed compliance with international humanitarian law. Despite almost universal accession to the relevant treaties, atrocities continued to be perpetrated against civilians, non-combatants and other protected persons, even in countries that were parties to the Geneva Conventions and their Additional Protocols. He thanked the countries which had described their experience with regard to implementing those instruments. Their efforts would serve as a useful guide for other countries and would contribute to global efforts to harmonize laws and build capacity with regard to international humanitarian law. Praise was also due to ICRC for the publication of the study entitled *Customary International Humanitarian Law*.

64. Malaysia was committed to the maintenance of international peace and security and contributed to United Nations peacekeeping operations. It also took seriously its obligation to ensure proper dissemination of the principles and rules of international humanitarian law, as codified in the Geneva Conventions, to which it was a party, and their Additional Protocols, to which it had not acceded. Malaysia was also a party to several other treaties relating to international humanitarian law.

65. Knowledge, awareness and understanding of the principles of international humanitarian law were the cornerstone of compliance therewith. In that connection, Malaysia was working on the establishment of a national committee on international humanitarian law which would review the country's legislation for compliance with international norms, study the international instruments on humanitarian law to determine the possibility of acceding to them, and disseminate international humanitarian law in general. Malaysia already worked closely with ICRC to raise awareness of international humanitarian law among young people and members of the armed forces and security forces.

66. **Mr. Tajima** (Japan) said that Protocols I and II Additional to the Geneva Conventions had come into force in Japan in February 2005. Japan had also recognized the competence of the International Fact-Finding Commission established by article 90 of Additional Protocol I. All the necessary legislative work to implement the two Protocols had been completed. With a view to promoting understanding of them, the Ministry of Foreign Affairs, in conjunction with the Japanese Red Cross Society, had sponsored a symposium on international humanitarian law in 2005 and the Asia Cup 2006, an international law moot court competition on international human rights and humanitarian law. His Government attached great importance to implementing international humanitarian law so as to strengthen the rule of law in the international community.

67. **Ms. Odaba-Mosoti** (Kenya) commended the work of ICRC and in particular its efforts to consolidate a legal reading of the complex questions bound up with the fight against terrorism, including the development of guidelines on the detention of persons. Accession to the Geneva Conventions and Additional Protocols I and II thereto was of paramount importance in ensuring the safety of civilians. Kenya was a party thereto and in 2002 had accordingly set up a national committee composed of representatives of key government ministries, which was responsible, inter alia, for coordinating and monitoring the implementation of international humanitarian law in Kenya, informing the Government of international humanitarian law instruments that needed to be ratified and reviewing, recommending and monitoring related measures and mechanisms at the national level. The committee was also actively involved in training activities for police and prison officers and in the dissemination of information on international human rights law. It advised the Government on the relevant implementing legislation and was preparing a training manual in the field, in conjunction with the University of Nairobi. She expressed appreciation to ICRC for its continued support of the national committee and reiterated Kenya's full commitment to the Geneva Conventions and their Additional Protocols. She welcomed the adoption of the third Protocol, which Kenya was taking steps to ratify, following its signature in March 2006.

68. **Mr. Elji** (Syria) said that Islamic law had been one of the first legal systems to advocate humanitarian rules for warfare and that Europe's history of bloody wars had led to the codification of such rules in the

Geneva Conventions. The universalization of those Conventions was an indication of both the soundness of their principles and the need to enforce them strictly. Regrettably, however, Israel had consistently and flagrantly violated them since its establishment, despite the international community's repeated calls on it to apply the Conventions in the territories that it occupied. Israel continued to target children, carry out settlement activities and construct its wall in the occupied Palestinian territory in violation of the advisory opinion of the International Court of Justice ruling that wall illegal. In the occupied Syrian Golan, Israel had displaced people and destroyed villages despite Security Council and General Assembly resolutions declaring such activities illegal. Israel had also damaged the environment and barred Syrian citizens from access to water while diverting it for the benefit of its settlers. Israel's recent war of aggression in Lebanon had targeted civilians and infrastructure and polluted the Mediterranean by attacking oil-storage facilities. Israel's barbarity was demonstrated by the fact that it had dropped over a million cluster bombs on southern Lebanon during the two days between the adoption of Security Council resolution 1701 (2006) and the time when the cessation of hostilities that resolution called for went into effect.

69. The world was witnessing unprecedented destruction and displacement due to armed conflict, foreign occupation and State terrorism, much of it unfortunately in the Middle East, a situation which would test the ability of international human rights bodies to enforce the Geneva Conventions and their Additional Protocols. His delegation hoped, in particular, that the international community would provide adequate support for the new Human Rights Council's two fact-finding missions investigating violations in the occupied Palestinian territory and Lebanon.

70. **Ms. Ramos Rodríguez** (Cuba) said civilians were being increasingly targeted in armed conflicts; that was clearly the case in the occupied Palestinian territory. In the light of recent violations of international humanitarian law, resulting from unilateralist and imperialistic attitudes, the international community was called on to promote strict observance of the rules governing the protection of civilians in armed conflict. That could only be ensured through the renunciation of expansionistic wars and the commitment of all States to multilateralism and to the Charter of the United Nations. It was also important to ensure full compliance with international humanitarian law at the national level and to disseminate it more widely. Cuba was a party to the 1949 Geneva Conventions and their 1977 Additional Protocols and had incorporated into its national legislation all the necessary safeguards for their full implementation, particularly with regard to the protection of civilians. In Cuba, a centre for the study of international humanitarian law, operating under the auspices of ICRC and the Cuban Red Cross, had made a significant contribution to the dissemination and teaching of that law, both in Cuba and in Central America and the Caribbean. Cuba remained ready to continue cooperating with all the bodies concerned in promoting international humanitarian law in Cuba and elsewhere.

71. **Ms. Wilcox** (United States of America) said while her country welcomed efforts to promote respect for and implementation of the law of armed conflict, it was not a party to either of the Protocols Additional to the Geneva Conventions of 1949. In the case of Additional Protocol I, the reasons were well known. Any consideration of the obligations of States under the law of armed conflict must therefore take into account the different treaty regimes to which States had subscribed. Her delegation welcomed the ICRC study on customary international humanitarian law but was concerned about the methodology used and, in particular, questioned the basis for its conclusion that a significant number of rules in the Additional Protocols had achieved the status of customary international law and were applicable to all States, including those not parties thereto. Her delegation was also concerned about the conclusion that those provisions had become binding in the case of internal conflicts. However, the United States had signed Additional Protocol III and was working towards its ratification; it urged all other States to accede to it.

72. **Ms. Kaplan** (Israel) said that recent events illustrated the detrimental effect of the dilution of the laws of armed conflict and of the distinction between civilians and combatants on which those laws were based. It was the duty of combatants to distinguish themselves clearly from civilians; that was a basic principle of the law of armed conflict, but not one that was respected by terrorists. Israel had played an active part in the formulation of Additional Protocols I and II because of the importance it attached to the

development of the law of armed conflict and also because of its unique experience in applying its principles in the face of terrorism. While acknowledging the important contribution made by ICRC to the development and codification of international humanitarian law, her country had not been alone in expressing concerns about certain aspects of the Additional Protocols; many States as well as leading scholars, had questioned whether some of their provisions had a sound legal basis or served to advance humanitarian interests. When the instruments of international law were politicized, as had been seen in the current meeting, they were weakened, which could harm those they were designed to protect. Israel could not be a party to Additional Protocols I and II because political terminology had been allowed to intrude into their texts. However, it considered the adoption of Additional Protocol III to be a historic landmark since it significantly improved humanitarian protection in many circumstances.

73. **Mr. Saleh** (Lebanon) said that the Geneva Conventions and their Additional Protocols had strengthened international humanitarian law. Lebanon honoured all international conventions on humanitarian law, which was taught in all its military academies and universities. The laws of war had emerged over a period of many years and had put an end to impunity for massacres and provided protection for civilians, the sick and wounded and prisoners of war; they had established the principles of distinction and proportionality, as embodied in articles 48 and 51 of Additional Protocol I. However, those two principles, which were part of customary international law and were therefore binding on every nation, were constantly flouted. In its recent aggression against Lebanon, Israel had caused unnecessary suffering among the civilian population through its use of cluster bombs, vacuum bombs and phosphorus bombs. Furthermore, there were reports that the Israeli forces had also used depleted uranium bombs and called for an international investigation of those allegations. The Israeli forces had deliberately targeted the Lebanese civilian population and vital infrastructure; and had committed massacres in Beirut and southern Lebanon. They claimed that they had issued warnings, but that in itself was a violation of article 51, paragraph 2, of Additional Protocol I, which prohibited acts or threats of violence whose primary purpose was to spread terror among the civilian population. They had sought to justify their attacks by claiming that combatants were among the civilian population; however, no combatants had been identified among the bodies recovered. Moreover, article 50, paragraph 3, of Additional Protocol I stated that the presence of non-civilians within a population did not deprive it of its civilian character. The Israeli forces had even targeted persons seeking to rescue victims, including Red Cross personnel. He called on the international community to compel Israel to comply with the rules of international law, including international humanitarian law.

74. **Ms. Pellandini** (Observer for the International Committee of the Red Cross (ICRC)) said that the universal acceptance recently achieved by the four Geneva Conventions of 1949 was a powerful counter-argument to those who claimed that international humanitarian law was inadequate to deal with contemporary armed conflict situations. Another significant recent development was the adoption on 8 December 2005 of Additional Protocol III — already ratified by six States and signed by 76 — which recognized the red crystal as an additional distinctive emblem enjoying the same international status and protection as the red cross and red crescent emblems. ICRC looked forward to its entry into force on 14 January 2007. It was pleased to note that to date 166 States had acceded to Additional Protocol I and 162 to Additional Protocol II and that there had been an increase in the number of accessions to the Rome Statute of the International Criminal Court. It was encouraged by the Secretary-General's report on the Protocols (A/61/222), which highlighted the commitment of many Governments to the implementation of international humanitarian law. That commitment was also reflected in the work of national committees set up in that field, which cooperated closely with ICRC and its related Advisory Service. It would be convening the second universal meeting of those committees in early 2007.

75. She drew attention to ICRC's recently published study on customary international humanitarian law, of which it provided the first thorough global assessment. It showed that many rules which, as treaty law, applied only in international armed conflicts applied also in non-international armed conflicts and would be a useful tool for a variety of groups. International humanitarian law, which must be respected by non-State armed groups as well as States, remained the most effective legal framework for the conduct of hostilities. The Geneva Conventions and their

Additional Protocols made a valuable contribution to the protection of human dignity and the preservation of humanity in the midst of war. It remained for Governments to take the necessary measures for the national implementation and wide dissemination of international humanitarian law. ICRC and its Advisory Service remained ready to give their support to all initiatives undertaken by States to that end.

The meeting rose at 12.40 p.m.